

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 5, 2016 TIME: 6:00PM

AGENDA

- 6:00PM – FOOD VENDOR TRUCKS

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

PRESENTATIONS

1. Update Re: Pease Tradeport PFC's
2. Update from Deputy Public Works Director Brian Goetz Re: Haven Well
3. Presentation Re: Zagster – Bike Share for Portsmouth – Juliet Walker, Deputy Planning Director

V. ACCEPTANCE OF MINUTES – OCTOBER 17, 2016 & NOVEMBER 21, 2016

VI. PUBLIC COMMENT SESSION

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation from Wilcox Industries, Corp - \$40,000.00 (***Sample motion – move to accept Wilcox's donation and ongoing sponsorship through July 4, 2027***)

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 2, 3, 11 and 15, to implement housekeeping changes relative to conformance with state law, nonconforming buildings and structures, setback requirements for parking areas, and the definition of “structure”
- B. First reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 5 and 15, to revise and clarify provisions related to years (i.e., setbacks), exceptions to yard requirements, and projections into required yards; and to clarify the definition of “building coverage”
- C. First reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 5, Section 10.521, to reduce the maximum building height from 35 feet to 30 feet in the Residential districts, and from 20 feet to 35 feet in the Mixed Residential districts
- D. First reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 4, 8 and 15, to allow accessory dwelling units and garden apartments by conditional use permit from the Planning Board, and to establish standards and procedures for such uses, in order to comply with a new state law

- E. First reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 5A and 6, regarding the Historic District, to reference Design Guidelines adopted by the Historic District Commission, to revise and expand the list of activities that are exempted from HDC review and approval, and to clarify that exempted uses are subject to administrative review and approval
- F. First reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 10, Section 10.1010 – Wetlands Protection, to expand the jurisdictional wetlands to include a portion of the Piscataqua River shorefront north of the I-95 bridge, to clarify the existing allowance for expansion of a single or two-family dwelling, and to require restoration of a vegetated buffer strip to the extent feasible
- G. First reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 12 – Signs, to limit the type and manner of illumination of signs using “direct illumination”, such as LED or plasma signs
- H. First reading of proposed Ordinance amending Chapter 7, Article II – Taxis, Section 7.201 – 7.217

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Jennie Halstead, Celebrate Pink, requesting permission to hold the 9th Annual 5k Walk & Run on Sunday, September 17, 2017 at 9:00 a.m. at Portsmouth Middle School ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Lilia Potter-Schwartz requesting permission to hold a triathlon beginning at Portsmouth High School on Sunday, May 18, 2017 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Donald Allison, Eastern States 20 Mile, requesting permission to hold the Eastern States 20 Mile Road Race on Sunday, March 26, 2017 ***(Anticipated action – move to refer to the City Manager with power)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no items under this section of the agenda this evening)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager’s Items Which Require Action:

- 1. Approval of Agreement Re: 400th Anniversary Celebration
- 2. Renewal of New Hampshire Public Radio Lease for Rooftop Antenna

Informational items

1. Events Listing

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Appointment of Robin Pickering to the Portsmouth Housing Authority – Resident Representative
 - Reappointment of Chris Mulligan to the Zoning Board of Adjustment
 - Reappointment of David Rheame to the Zoning Board of Adjustment
2. *Appointments to be Voted:
 - Reappointment of Robert Marchewka to the Economic Development Commission
 - Appointment of Richard Shea as Regular member to the Historic District Commission
 - Appointment of Martin Ryan as an Alternate member to the Historic District Commission

C. ASSISTANT MAYOR SPLAINE

1. Portsmouth City Council Policy, Re: “Non-Meetings with Legal Counsel,” and request for Ethics and Conflicts of Interest Training Workshop

D. COUNCILOR DENTON

1. *Capital Improvement Plan – Anaerobic Digesters (***Sample motion – move to have City staff complete a Capital Improvement Plan form and be prepared to brief when necessary inclusion of an Anaerobic Digester at the Pease Wastewater Treatment Facility***)

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK

**Indicates Verbal Report*

INFORMATION ITEMS

(There are no items on under this section of the agenda this evening)


NOTICE TO THE PUBLIC WHO ARE HEARING IMPAIRED: Please contact Dianna Fogarty at 603-610-7270 one-week prior to the meeting for assistance.

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: December 1, 2016

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on December 5, 2016 City Council Agenda

Work Session:

6:00 p.m.

1. **Food Vendor Trucks.** Attached is a memorandum from Nancy Colbert Puff, Deputy City Manager regarding a summary of topics that can be used to guide a discussion on Food Vendor Trucks.

Presentation:

1. **Update Re: Pease Tradeport PFC's.** Councilor Pearson requested that an update be given to the City Council regarding Pease Tradeport PFC's. On Monday evening, the Testing for Pease Advocacy Group, Andrea Amico, Alayna Davis and Michelle Dalton will make a presentation to the City Council.
2. **Update from Deputy Public Works Director Brian Goetz Re: Haven Well.** Brian Goetz, Deputy Public Works Director, will give an update to the City Council regarding Pease Tradeport Water System: PFC Monitoring, Treatment Demonstration Project and Haven Well Update.
3. **Presentation Re: Zagster – Bike Share for Portsmouth.** Juliet Walker, Deputy Planning Director, will make a presentation to the City Council regarding Zagster and bike share for the City of Portsmouth.

Acceptance of Grants and Donations:

1. **Acceptance of Donation from Wilcox Industries, Corp.** Wilcox Industries Corp. has offered to be a leading contributor in memorializing Independence Day for the next ten years. In this capacity, Wilcox would be the main sponsor of the City's Fourth of July celebration by contributing \$40,000 annually plus anticipated inflation over this time period. [See attached Letter of Agreement.](#)

Wilcox will collaborate with City staff to build a broader Independence Day celebration that will include additional fireworks, entertainment and philanthropic initiatives to benefit local veteran groups. This will include higher-profile performances as well as expanded publicity and branding to encourage larger community participation.

Together, Wilcox and City staff will reassess this event each year to continue to grow this program, such as including other partnerships and local business involvement, and tying in other Portsmouth milestones overtime such as the City's 400th anniversary in 2023. With this added support we will continue to enhance this celebration for the next decade.

I recommend the City Council move to accept Wilcox's donation and ongoing sponsorship through July 4, 2027. Action on this matter should take place under Section VII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **First Reading of Proposed Ordinance Amendments.**
 - 1.1 **Request for First Reading of Proposed Zoning Ordinance Amendments ("Zoning Omnibus, Part 1").** As a result of the November 21st City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the proposed Zoning Ordinance Amendments ("Zoning Omnibus, Part 1").

As outlined in [Planning Director Rick Taintor's attached memorandum](#), the Planning Department has been working on a number of proposed amendments to the Zoning Ordinance to address identified issues with the existing Ordinance as well as new priorities emerging in the City.

Although it has been our intention to present a comprehensive "omnibus" including all items in progress, there is a need to move forward with a phased approach, in part because of the urgency of responding to a new state law regarding accessory dwelling units, and also because some of the zoning revisions in progress will require more lengthy review and would unnecessarily hold up implementation of the easier revisions. The first phase of the zoning omnibus is presented in this memorandum and the [attached document](#), and an overview of the next phase is provided at the end of the memo.

At its meeting on October 20, 2016, the Planning Board voted unanimously to recommend that the City Council enact the series of amendments to the Zoning Ordinance set forth in [the attached document](#). These amendments address a variety of issues throughout the Ordinance, ranging from simple housekeeping matters to implementation of the new State mandate regarding accessory dwelling units.

The City Council will be acting on the following proposed Ordinances separately:

- A. **First reading of ordinance amending Chapter 10 – Zoning Ordinance, Articles 2, 3, 11 and 15, relative to expiration of variances and special exceptions, provisions for nonconforming buildings and structures, setbacks in Gateway districts, and definition of “structure” (housekeeping items).**

Move to pass first reading and schedule a public hearing and second reading at the December 19, 2016 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

- B. **First reading of ordinance amending Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, relative to measurement rules, front yard exception for existing alignments, corner lot vision obstruction, projections into required yards, and setbacks for accessory buildings, structures and uses; and Article 15 – Definitions, relative to the definition of “building coverage.”**

Move to pass first reading and schedule a public hearing and second reading at the December 19, 2016 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

- C. **First reading of ordinance amending Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, revising the maximum permitted structure heights in the Residential and Mixed Residential Districts.**

Move to pass first reading and schedule a public hearing and second reading at the December 19, 2016 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

- D. **First reading of ordinance amending Chapter 10 – Zoning Ordinance, Articles 4, 8 and 15, regulating and defining Accessory Dwelling Units and Garden Cottages, in order to implement a new state law requiring accessory dwelling units to be permitted in all zoning districts where single-family dwellings are permitted.**

Move to pass first reading and schedule a public hearing and second reading at the December 19, 2016 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

- E. **First reading of ordinance amending Chapter 10 – Zoning Ordinance, Articles 5A and 6, relative to design guidelines in the Historic District and exemptions from the requirement for Historic District Commission approval of specified activities.**

Move to pass first reading and schedule a public hearing and second reading at the December 19, 2016 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

- F. **First reading of ordinance amending Chapter 10 – Zoning Ordinance, Article 10 – Environmental Protection Standards, extending jurisdiction to the Piscataqua River shoreline at Atlantic Heights, clarifying the one- and two-family exemption from a requirement for a conditional use permit, and adding a requirement for restoration of the vegetated buffer strip.**

Move to pass first reading and schedule a public hearing and second reading at the December 19, 2016 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

- G. **First reading of ordinance amending Chapter 10 – Zoning Ordinance, Article 12 – Signs, adding standards for signs using “direct illumination” (e.g., LED or plasma lighting); and Article 15 – Definitions, modifying the definition of “changeable sign.”**

Move to pass first reading and schedule a public hearing and second reading at the December 19, 2016 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

- 1.2 **First Reading of Proposed Ordinance amending Chapter 7, Article II – Taxis, Section 7.201 – 7.217.** As a result of the November 21, 2016 City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the [attached proposed Ordinance](#) amending Chapter 7, Article II – Taxis, Section 7.201 – 7.217. This ordinance is identical to the draft provided to the City Council on November 21, 2016 with the exception that Section 7.214 was changed in response to Councilor Dwyer’s comment. It now provides taxi owners with five (5) business days to correct a defect. Councilor Splaine asked for a comparison of the draft ordinance with the new State law that governs transportation network companies such as Uber and Lyft. The Deputy City Attorney provides a short [summary attached](#) and can provide more detail as may be requested.

I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the December 19, 2016 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

City Manager's Items Which Require Action:

1. **Approval of Agreement Re: 400th Anniversary Celebration.** As a result of the November 21st City Council meeting, the Council approved the Trust for the 400th Anniversary Celebration. At the October 17th City Council meeting, the Council authorized the City Manager to draft a partnership agreement with the Portsmouth Historical Society/Discover Portsmouth Center to provide an annual contribution from the City of Portsmouth to the PHS/DPC which will provide a base level of support to create a varied, organized and informed set of activities in which the community can engage to develop a sense of pride for Portsmouth's past and future. I am requesting that City Council approve the [Agreement at this evening's Council meeting](#).

As you will recall, on Saturday, October 1, 2016 the Portsmouth Historical Society/Discover Portsmouth Center (PHS/DPC) made a presentation to the City Council outlining key goals in creating an ongoing celebration for Portsmouth's 400th anniversary.

As Portsmouth approaches its 400th anniversary in 2023, PHS/DPC will be the conveners of this celebration, one that will not only encompass a momentous event in 2023 but serve as a layered program throughout each year up to and beyond this milestone.

The development of a trust endorses the formation of this program and partnership between the City and PHS/DPC. With an established trust, a formal connection will be clarified and PHS/DPC can begin their planning in earnest and develop a steering committee to oversee all anniversary activities. Annual funding will provide needed support in creating a varied, organized and informed curriculum in which the community can engage in and have a sense of pride for both our past and our future.

I recommend the City Council move to approve the Agreement for the 400th Anniversary Celebration, and further, I request the use of \$50,000 from Urban Development Action Grant (UDAG) and \$50,000 from the Contingency Account to fund the Agreement.

2. **Renewal of New Hampshire Public Radio Lease for Rooftop Antenna.** For City Council approval is a Lease between the City of Portsmouth and New Hampshire Public Radio (NHPR) to allow NHPR to continue to maintain its antenna and associated equipment on the roof of City Hall. In 2004, NHPR requested permission of the City to install an antenna and other equipment. That permission was granted by the City Council and the City entered into a lease. That lease has expired and NHPR now requests a new lease.

The proposed new lease is [attached](#) and is substantially the same as the prior lease. Its key terms include the following:

- a term of 10 years
- right of either party to terminate with 180-day written notice

- rent in the amount of \$306 per month adjusted annually
(covers electricity provided by the City and administrative costs)
- coordination if there are technical issues

I recommend the City Council move to authorize the City Manager to enter into a Lease with New Hampshire Public Radio for a rooftop antenna and other equipment.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on November 21, 2016. In addition, this can be found on the City's website.